

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 02, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MICHAEL MARTINEZ,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

No. 1:20-cv-03229-SMJ

ORDER DISMISSING ACTION

On December 8, 2020, Petitioner Michael Martinez, a prisoner housed at the Coyote Ridge Corrections Center, filed a *pro se* application for writ of habeas corpus by a person in State custody under 28 U.S.C. § 2254, ECF No. 1. Petitioner neither paid the filing fee nor submitted a completed Application to Proceed without Prepayment of Fees as required by Rule 3(a) of the Rules Governing Section 2254 Cases in the United States District Courts.

By letter dated December 8, 2020, the Clerk's Office advised Petitioner of these deficiencies. ECF No. 2. The Clerk's Office provided him with an application form to proceed without prepayment of fees to complete and return. *Id.* On December 30, 2020, this Court ordered Petitioner to submit a completed Application to Proceed without Prepayment of Fees within **thirty days** of the date

1 of that Order, noting that his submissions of December 23, 2020 were insufficient.
2 ECF No. 7. In the alternative, Petitioner was advised he could pay the full \$5.00
3 filing fee. *Id.* Petitioner was cautioned that his failure to do so would result in the
4 dismissal of this case. *Id.* Petitioner has neither paid the filing fee nor returned the
5 Application to Proceed without Prepayment of Fees by the due date of January 30,
6 2021.

7 Accordingly, **IT IS HEREBY ORDERED:**

- 8 **1.** This action is **DISMISSED WITHOUT PREJUDICE** for failure to
9 pay the filing fee or comply with the *in forma pauperis* requirements
10 of Rule 3(a) of the Rules Governing Section 2254 Cases in the
11 United States District Courts.
- 12 **2.** All pending motions are **DENIED AS MOOT.**
- 13 **3.** The Clerk's Office is directed to **ENTER JUDGMENT** and **CLOSE**
14 the file.

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4. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability is therefore **DENIED**.

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to *pro se* Petitioner at his last known address.

DATED this 2nd day of March 2021.


SALVADOR MENDOZA, JR.
United States District Judge